

**ASSEMBLY, No. 1159**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman ROY FREIMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**SYNOPSIS**

Authorizes workforce housing transfer agreements for meeting moderate income housing obligation; establishes funding preferences for receiving municipalities.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT authorizing workforce housing transfer agreements,  
2 amending various parts of the statutory law, and supplementing  
3 P.L.1985, c.222.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. (New section) The Legislature finds and declares that:

9 a. The affordable housing needs of the State should be satisfied  
10 in an equitable manner throughout all municipalities, regardless of  
11 demographic profile;

12 b. For many municipalities, the satisfaction of existing fair  
13 share affordable housing obligations could potentially result in  
14 significant challenges to local population, infrastructure, and school  
15 resources;

16 c. The workforce housing transfer agreement, established  
17 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
18 this bill), is intended as a mechanism to allow municipalities to  
19 more effectively address the infrastructural challenges of providing  
20 affordable housing, while also ensuring that affordable housing is  
21 provided for the low and moderate income population of the State  
22 in an equitable manner throughout both urban and suburban  
23 locations;

24 d. Through a workforce housing transfer agreement, if the  
25 governing body of a municipality believes it is unreasonably  
26 burdened by a large affordable housing obligation, the municipality  
27 would be able transfer some or all of the moderate income portion  
28 of its obligation to another municipality in the State, but would still  
29 be responsible for the low income portion of the obligation;

30 e. As a consequence of a workforce housing transfer  
31 agreement, a municipality that accepts an additional moderate  
32 income housing obligation is likely to experience increased pressure  
33 on existing local infrastructure;

34 f. Although workforce housing transfer agreements are  
35 intended to serve as an important tool in the construction of  
36 affordable housing, these infrastructural concerns may deter some  
37 municipalities from entering into the agreements;

38 g. By providing preferential funding for infrastructure  
39 improvement projects in municipalities that accept additional  
40 moderate income housing obligations, P.L. , c. (C. ) (pending  
41 before the Legislature as this bill) is meant to ensure that  
42 municipalities which enter into workforce housing transfer  
43 agreements are not overburdened by potential infrastructural needs;

44 h. Furthermore, P.L. , c. (C. ) (pending before the  
45 Legislature as this bill) rewards those municipalities willing to

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 accept an additional affordable housing obligation by broadening  
2 the scope of what constitutes moderate income housing within their  
3 boundaries; and

4 i. Finally, by providing that sending municipalities may only  
5 transfer the moderate income portion of their affordable housing  
6 obligations, P.L. , c. (C. ) (pending before the Legislature as  
7 this bill) is meant to ensure that housing is provided throughout the  
8 State in an equitable manner, and that municipalities which choose  
9 to send some of their obligation continue to hold a substantial,  
10 enforceable responsibility for providing housing to the most  
11 vulnerable segment of the population.

12

13 2. (New section) a. On or before the first day of the sixth  
14 month next following enactment, the Executive Director of the  
15 Housing and Mortgage Finance Agency, in accordance with the  
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.), shall adopt any rules and regulations necessary for the  
18 implementation of P.L. , c. (C. ) (pending before the  
19 Legislature as this bill), including, but not limited to standards for  
20 adjustments to affordability average requirements in a municipality  
21 engaged in a workforce housing transfer agreement, in accordance  
22 with subsection h. of section 12 of P.L.1985, c.222 (C.52:27D-312).

23 b. On or before the first day of the sixth month next following  
24 enactment, the Commissioner of Community Affairs, in accordance  
25 with the "Administrative Procedure Act," P.L.1968, c.410  
26 (C.52:14B-1 et seq.), shall adopt any rules and regulations  
27 necessary for the implementation of P.L. , c. (C. ) (pending  
28 before the Legislature as this bill), including, but not limited to  
29 rules and regulations setting forth the safeguards sufficient to  
30 ensure that workforce housing transfer agreement funding is applied  
31 for purposes consistent with the agreement and with the "Fair  
32 Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.).

33

34 3. (New section) a. Notwithstanding any provision of law to  
35 the contrary, the Commissioner of Environmental Protection shall,  
36 to the extent possible, expedite the review of any permit or approval  
37 within the authority of the Department of Environmental Protection  
38 that is submitted in conjunction with a proposal to develop low or  
39 moderate income housing in a municipality for which the moderate  
40 income housing obligation is increased pursuant to a workforce  
41 housing transfer agreement, as set forth in section 12 of P.L.1985,  
42 c.222 (C.52:27D-312).

43 b. The Commissioner of Environmental Protection shall  
44 promulgate rules and regulations pursuant to the "Administrative  
45 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate  
46 the provisions of this section on or before the first day of the sixth  
47 month next following the enactment of P.L. , c. (C. )  
48 (pending before the Legislature as this bill).

1       4. Section 2 of P.L.1985, c.222 (C.52:27D-302) is amended to  
2 read as follows:

3       2. The Legislature finds that:

4       a. The New Jersey Supreme Court, through its rulings in South  
5 Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975)  
6 and South Burlington County NAACP v. Mount Laurel, 92 N.J. 158  
7 (1983), has determined that every municipality in a growth area has  
8 a constitutional obligation to provide through its land use  
9 regulations a realistic opportunity for a fair share of its region's  
10 present and prospective needs for housing for low and moderate  
11 income families.

12       b. In the second Mount Laurel ruling, the Supreme Court stated  
13 that the determination of the methods for satisfying this  
14 constitutional obligation "is better left to the Legislature," that the  
15 court has "always preferred legislative to judicial action in their  
16 field," and that the judicial role in upholding the Mount Laurel  
17 doctrine "could decrease as a result of legislative and executive  
18 action."

19       c. The interest of all citizens, including low and moderate  
20 income families in need of affordable housing, and the needs of the  
21 workforce, would be best served by a comprehensive planning and  
22 implementation response to this constitutional obligation.

23       d. There are a number of essential ingredients to a  
24 comprehensive planning and implementation response, including  
25 the establishment of reasonable fair share housing guidelines and  
26 standards, the initial determination of fair share by officials at the  
27 municipal level and the preparation of a municipal housing element,  
28 State review of the local fair share study and housing element, and  
29 continuous State funding for low and moderate income housing to  
30 replace the federal housing subsidy programs which have been  
31 almost completely eliminated.

32       e. The State can maximize the number of low and moderate  
33 income units provided in New Jersey by allowing its municipalities  
34 to adopt appropriate phasing schedules for meeting their fair share,  
35 so long as the municipalities permit a timely achievement of an  
36 appropriate fair share of the regional need for low and moderate  
37 income housing as required by the Mt. Laurel I and II opinions and  
38 other relevant court decisions.

39       f. The State can also maximize the number of low and  
40 moderate income units by creating new affordable housing and by  
41 rehabilitating existing, but substandard, housing in the State.  
42 **【Because the Legislature has determined, pursuant to P.L.2008,**  
43 **c.46 (C.52:27D-329.1 et al.), that it is no longer appropriate or in**  
44 **harmony with the Mount Laurel doctrine to permit the transfer of**  
45 **the fair share obligations among municipalities within a housing**  
46 **region, it is necessary and appropriate to create a new program to**  
47 **create new affordable housing and to foster the rehabilitation of**  
48 **existing, but substandard, housing.】**

1 g. Since the urban areas are vitally important to the State,  
2 construction, conversion and rehabilitation of housing in our urban  
3 centers should be encouraged. However, the provision of housing  
4 in urban areas must be balanced with the need to provide housing  
5 throughout the State for the free mobility of citizens.

6 h. The Supreme Court of New Jersey in its Mount Laurel  
7 decisions demands that municipal land use regulations affirmatively  
8 afford a reasonable opportunity for a variety and choice of housing  
9 including low and moderate cost housing, to meet the needs of  
10 people desiring to live there. While provision for the actual  
11 construction of that housing by municipalities is not required, they  
12 are encouraged but not mandated to expend their own resources to  
13 help provide low and moderate income housing.

14 i. Certain amendments to the enabling act of the Council on  
15 Affordable Housing are necessary to provide guidance to the  
16 council to ensure consistency with the legislative intent, while at the  
17 same time clarifying the limitations of the council in its rulemaking.  
18 Although the court has remarked in several decisions that the  
19 Legislature has granted the council considerable deference in its  
20 rulemaking, the Legislature retains its power and obligation to  
21 clarify and amend the enabling act from which the council derives  
22 its rulemaking power, from time to time, in order to better guide the  
23 council.

24 j. The Legislature finds that the use of **【regional contribution】**  
25 workforce housing transfer agreements, which **【permits】** permit  
26 municipalities to transfer a certain portion of their fair share  
27 housing obligation outside of the municipal borders, should **【no**  
28 **longer】** be available to municipalities as a mechanism for the  
29 creation of **【affordable】** moderate income housing  
30 **【by the council】**, but that pursuant to P.L.2008, c.46 (C.52:27D-  
31 329.1 et al.), regional contribution agreements should no longer be  
32 utilized.

33 (cf: P.L.2008, c.46, s.4)

34  
35 5. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to  
36 read as follows:

37 4. As used in P.L.1985, c.222 (C.52:27D-301 et al.):

38 a. "Council" means the Council on Affordable Housing  
39 established in P.L.1985, c.222 (C.52:27D-301 et al.), which shall  
40 have primary jurisdiction for the administration of housing  
41 obligations in accordance with sound regional planning  
42 considerations in this State.

43 b. "Housing region" means a geographic area of not less than  
44 two nor more than four contiguous, whole counties which exhibit  
45 significant social, economic and income similarities, and which  
46 constitute to the greatest extent practicable the primary metropolitan  
47 statistical areas as last defined by the United States Census Bureau  
48 prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.).

1 c. "Low income housing" means housing affordable according  
2 to federal Department of Housing and Urban Development or other  
3 recognized standards for home ownership and rental costs and  
4 occupied or reserved for occupancy by households with a gross  
5 household income equal to 50 percent or less of the median gross  
6 household income for households of the same size within the  
7 housing region in which the housing is located.

8 d. "Moderate income housing" means housing affordable  
9 according to federal Department of Housing and Urban  
10 Development or other recognized standards for home ownership  
11 and rental costs and occupied or reserved for occupancy by  
12 households with a gross household income equal to more than  
13 **[50%]** 50 percent but less than 80 percent of the median gross  
14 household income for households of the same size within the  
15 housing region in which the housing is located. "Moderate income  
16 housing" also includes workforce housing when used in reference to  
17 a receiving municipality that has entered into a workforce housing  
18 transfer agreement on or after the effective date of P.L. \_\_\_\_\_.

19 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill).

20 e. "Resolution of participation" means a resolution adopted by  
21 a municipality in which the municipality chooses to prepare a fair  
22 share plan and housing element in accordance with P.L.1985, c.222  
23 (C.52:27D-301 et al.).

24 f. "Inclusionary development" means a residential housing  
25 development in which a substantial percentage of the housing units  
26 are provided for a reasonable income range of low and moderate  
27 income households.

28 g. "Conversion" means the conversion of existing commercial,  
29 industrial, or residential structures for low and moderate income  
30 housing purposes where a substantial percentage of the housing  
31 units are provided for a reasonable income range of low and  
32 moderate income households.

33 h. "Development" means any development for which  
34 permission may be required pursuant to the "Municipal Land Use  
35 Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

36 i. "Agency" means the New Jersey Housing and Mortgage  
37 Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et  
38 seq.).

39 j. "Prospective need" means a projection of housing needs  
40 based on development and growth which is reasonably likely to  
41 occur in a region or a municipality, as the case may be, as a result  
42 of actual determination of public and private entities. In  
43 determining prospective need, consideration shall be given to  
44 approvals of development applications, real property transfers, and  
45 economic projections prepared by the State Planning Commission  
46 established by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-  
47 196 et seq.).

- 1 k. "Person with a disability" means a person with a physical  
2 disability, infirmity, malformation, or disfigurement which is  
3 caused by bodily injury, birth defect, aging, or illness including  
4 epilepsy and other seizure disorders, and which shall include, but  
5 not be limited to, any degree of paralysis, amputation, lack of  
6 physical coordination, blindness or visual impairment, deafness or  
7 hearing impairment, the inability to speak or a speech impairment,  
8 or physical reliance on a service animal, wheelchair, or other  
9 remedial appliance or device.
- 10 l. "Adaptable" means constructed in compliance with the  
11 technical design standards of the barrier free subcode adopted by  
12 the Commissioner of Community Affairs pursuant to the "State  
13 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119  
14 et seq.) and in accordance with the provisions of section 5 of  
15 P.L.2005, c.350 (C.52:27D-123.15).
- 16 m. "Very low income housing" means housing affordable  
17 according to federal Department of Housing and Urban  
18 Development or other recognized standards for home ownership  
19 and rental costs and occupied or reserved for occupancy by  
20 households with a gross household income equal to 30 percent or  
21 less of the median gross household income for households of the  
22 same size within the housing region in which the housing is located.
- 23 n. "Affordability average" means an average of the percentage  
24 of median income, by household size for an applicable county, at  
25 which price-restricted units in a development are affordable to low  
26 and moderate income households, calculated in accordance with the  
27 rules and regulations of the agency.
- 28 o. "Moderate income housing share" means the percentage of  
29 all price-restricted housing units in new developments within a  
30 municipality that are permitted to be moderate income units, as  
31 opposed to low-income units.
- 32 p. "Workforce housing transfer agreement" means an  
33 agreement concerning the transfer of a portion of a municipality's  
34 fair share affordable housing obligation, entered into pursuant to  
35 section 12 of P.L.1985, c.222 (C.52:27D-312).
- 36 q. "Workforce housing" means housing affordable to,  
37 according to federal Department of Housing and Urban  
38 Development or other recognized standards for home ownership  
39 and rental costs, and occupied by, or reserved for occupancy by, a  
40 household with a gross household income equal to more than 80  
41 percent but less than 120 percent of the median gross household  
42 income for households of the same size within the housing region in  
43 which the housing is located, and that may be reserved for  
44 occupancy by a household with at least one member working or  
45 living in the municipality upon submittal of the application for  
46 workforce housing.  
47 (cf: P.L.2017, c.131, s.199)

1       6. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to  
2 read as follows:

3       11. a. In adopting its housing element, the municipality may  
4 provide for its fair share of low and moderate income housing by  
5 means of any technique or combination of techniques which provide  
6 a realistic opportunity for the provision of the fair share. The  
7 housing element shall contain an analysis demonstrating that it will  
8 provide such a realistic opportunity, and the municipality shall  
9 establish that its land use and other relevant ordinances have been  
10 revised to incorporate the provisions for low and moderate income  
11 housing. In preparing the housing element, the municipality shall  
12 consider the following techniques for providing low and moderate  
13 income housing within the municipality, as well as such other  
14 techniques as may be published by the council or proposed by the  
15 municipality:

16       (1) Rezoning for densities necessary to assure the economic  
17 viability of any inclusionary developments, either through  
18 mandatory set-asides or density bonuses, as may be necessary to  
19 meet all or part of the municipality's fair share in accordance with  
20 the regulations of the council and the provisions of subsection h. of  
21 this section;

22       (2) Determination of the total residential zoning necessary to  
23 assure that the municipality's fair share is achieved;

24       (3) Determination of measures that the municipality will take to  
25 assure that low and moderate income units remain affordable to low  
26 and moderate income households for an appropriate period of not  
27 less than six years;

28       (4) A plan for infrastructure expansion and rehabilitation if  
29 necessary to assure the achievement of the municipality's fair share  
30 of low and moderate income housing;

31       (5) Donation or use of municipally owned land or land  
32 condemned by the municipality for purposes of providing low and  
33 moderate income housing;

34       (6) Tax abatements for purposes of providing low and moderate  
35 income housing;

36       (7) Utilization of funds obtained from any State or federal  
37 subsidy toward the construction of low and moderate income  
38 housing;

39       (8) Utilization of municipally generated funds toward the  
40 construction of low and moderate income housing; and

41       (9) The purchase of privately owned real property used for  
42 residential purposes at the value of all liens secured by the property,  
43 excluding any tax liens, notwithstanding that the total amount of  
44 debt secured by liens exceeds the appraised value of the property,  
45 pursuant to regulations promulgated by the Commissioner of  
46 Community Affairs pursuant to subsection b. of section 41 of  
47 P.L.2000, c.126 (C.52:27D-311.2).



- 1       b. The municipality may provide for a phasing schedule for the  
2 achievement of its fair share of low and moderate income housing.
- 3       c. (Deleted by amendment, P.L.2008, c.46)
- 4       d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall  
5 require a municipality to raise or expend municipal revenues in  
6 order to provide low and moderate income housing.
- 7       e. When a municipality's housing element includes the  
8 provision of rental housing units in a community residence for the  
9 developmentally disabled, as defined in section 2 of P.L.1977,  
10 c.448 (C.30:11B-2), which will be affordable to persons of low and  
11 moderate income, and for which adequate measures to retain such  
12 affordability pursuant to paragraph (3) of subsection a. of this  
13 section are included in the housing element, those housing units  
14 shall be fully credited as permitted under the rules of the council  
15 towards the fulfillment of the municipality's fair share of low and  
16 moderate income housing.
- 17       f. It having been determined by the Legislature that the  
18 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is  
19 a public purpose, a municipality or municipalities may utilize public  
20 monies to make donations, grants or loans of public funds for the  
21 rehabilitation of deficient housing units and the provision of new or  
22 substantially rehabilitated housing for low and moderate income  
23 persons, providing that any private advantage is incidental.
- 24       g. A municipality which has received substantive certification  
25 from the council, and which has actually effected the construction  
26 of the affordable housing units it is obligated to provide, may  
27 amend its affordable housing element or zoning ordinances without  
28 the approval of the council.
- 29       h. Whenever affordable housing units are proposed to be  
30 provided through an inclusionary development, a municipality shall  
31 provide, through its zoning powers, incentives to the developer,  
32 which shall include increased densities and reduced costs, in  
33 accordance with the regulations of the council and this subsection.
- 34       i. The council, upon the application of a municipality and a  
35 developer, may approve reduced affordable housing set-asides or  
36 increased densities to ensure the economic feasibility of an  
37 inclusionary development.
- 38       j. A municipality may enter into an agreement with a  
39 developer or residential development owner to provide a preference  
40 for affordable housing to low to moderate income veterans who  
41 served in time of war or other emergency, as defined in section 1 of  
42 P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable  
43 units in that particular project. This preference shall be established  
44 in the applicant selection process for available affordable units so  
45 that applicants who are veterans who served in time of war or other  
46 emergency, as referenced in this subsection, and who apply within  
47 90 days of the initial marketing period shall receive preference for  
48 the rental of the agreed-upon percentage of affordable units. After

1 the first 90 days of the initial 120-day marketing period, if any of  
2 those units subject to the preference remain available, then  
3 applicants from the general public shall be considered for  
4 occupancy. Following the initial 120-day marketing period,  
5 previously qualified applicants and future qualified applicants who  
6 are veterans who served in time of war or other emergency, as  
7 referenced in this subsection, shall be placed on a special waiting  
8 list as well as the general waiting list. The veterans on the special  
9 waiting list shall be given preference for affordable units, as the  
10 units become available, whenever the percentage of preference-  
11 occupied units falls below the agreed upon percentage. Any  
12 agreement to provide affordable housing preferences for veterans  
13 pursuant to this subsection shall not affect a municipality's ability to  
14 receive credit for the unit from the council, or its successor.

15 k. The municipality may propose that a portion of its fair share  
16 obligation shall be met through a workforce housing transfer  
17 agreement. The housing element shall identify an alternate way of  
18 meeting that portion of its fair share obligation if a workforce  
19 housing transfer agreement is not entered. The municipality shall  
20 provide a statement of its reasons for the proposal.

21 (cf: P.L.2013, c.6, s.1)

22  
23 7. Section 12 of P.L.1985, c.222 (C.52:27D-312) is amended to  
24 read as follows:

25 12. a. **【Except as prohibited under P.L.2008, c.46 (C.52:27D-**  
26 **329.1 et al.), a】** A municipality may propose the transfer of up to  
27 **【50%】** 50 percent of its fair share to another municipality  
28 **【within】**, regardless of its housing region, by means of a  
29 contractual workforce housing transfer agreement into which the  
30 two municipalities voluntarily enter. A municipality may also  
31 propose a transfer by contracting with the agency or another  
32 governmental entity designated by the council if the council  
33 determines that the municipality has exhausted all possibilities  
34 **【within its housing region】** with other municipalities. A  
35 municipality proposing to transfer to another municipality, whether  
36 directly or by means of a contract with the agency or another  
37 governmental entity designated by the council, shall provide the  
38 council with the housing element and statement required under  
39 **【subsection c.】** subsection k. of section 11 of P.L.1985, c.222  
40 (C.52:27D-311), and shall request the council to determine a match  
41 with a municipality filing a statement of intent pursuant to  
42 subsection e. of this section. **【Except as provided in subsection b.**  
43 **of this section, the】** The agreement may be entered into upon  
44 obtaining substantive certification under section 14 of P.L.1985,  
45 c.222 (C.52:27D-314), or anytime thereafter. The **【regional**  
46 **contribution】** workforce housing transfer agreement entered into  
47 shall specify how the housing shall be provided by the second

1 municipality, hereinafter the receiving municipality, and the amount  
2 of contributions to be made by the first municipality, hereinafter the  
3 sending municipality.

4 b. **【A municipality which is a defendant in an exclusionary**  
5 **zoning suit and which has not obtained substantive certification**  
6 **pursuant to P.L.1985, c.222 may request the court to be permitted to**  
7 **fulfill a portion of its fair share by entering into a regional**  
8 **contribution agreement. If the court believes the request to be**  
9 **reasonable, the court shall request the council to review the**  
10 **proposed agreement and to determine a match with a receiving**  
11 **municipality or municipalities pursuant to this section. The court**  
12 **may establish time limitations for the council's review, and shall**  
13 **retain jurisdiction over the matter during the period of council**  
14 **review. If the court determines that the agreement provides a**  
15 **realistic opportunity for the provision of low and moderate income**  
16 **housing within the housing region, it shall provide the sending**  
17 **municipality a credit against its fair share for housing to be**  
18 **provided through the agreement in the manner provided in this**  
19 **section. The agreement shall be entered into prior to the entry of a**  
20 **final judgment in the litigation. In cases in which a final judgment**  
21 **was entered prior to the date P.L.1985, c.222 takes effect and in**  
22 **which an appeal is pending, a municipality may request**  
23 **consideration of a regional contribution agreement; provided that it**  
24 **is entered into within 120 days after P.L.1985, c.222 takes effect.**  
25 **In a case in which a final judgment has been entered, the court shall**  
26 **consider whether or not the agreement constitutes an expeditious**  
27 **means of providing part of the fair share. Notwithstanding this**  
28 **subsection, no consideration shall be given to any regional**  
29 **contribution agreement of which the council did not complete its**  
30 **review and formally approve a recommendation to the court prior to**  
31 **the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.).】**  
32 (Deleted by amendment, P.L. , c. ) (pending before the  
33 Legislature as this bill)

34 c. **【Except as prohibited under P.L.2008, c.46 (C.52:27D-329.1**  
35 **et al.), regional contribution agreements shall be approved by the】**  
36 The council shall approve a workforce housing transfer agreement  
37 that conforms to the requirements of this section, after review by  
38 the county planning board or agency of the county in which the  
39 receiving municipality is located. The council shall determine  
40 whether or not the agreement provides a realistic opportunity for the  
41 provision of low and moderate income housing within convenient  
42 access to employment opportunities. The council shall refer the  
43 agreement to the county planning board or agency which shall  
44 review whether or not the transfer agreement is in accordance with  
45 sound, comprehensive regional planning. In its review, the county  
46 planning board or agency shall consider the master plan and zoning  
47 ordinance of the sending and receiving municipalities, its own  
48 county master plan, and the State development and redevelopment

1 plan. In the event that there is no county planning board or agency  
2 in the county in which the receiving municipality is located, the  
3 council shall also determine whether or not the agreement is in  
4 accordance with sound, comprehensive regional planning. The  
5 council shall review the agreement to confirm that it contains  
6 sufficient safeguards to ensure that contributions to the receiving  
7 municipality are applied for purposes consistent with the agreement  
8 and with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et  
9 al.). After it has been determined that the agreement provides a  
10 realistic opportunity for low and moderate income housing within  
11 convenient access to employment opportunities, **and that the**  
12 **agreement** is consistent with sound, comprehensive regional  
13 planning, and contains sufficient safeguards to ensure that  
14 contributions are applied for acceptable purposes, the council shall  
15 approve the **regional contribution** workforce housing transfer  
16 agreement by resolution. All determinations of a county planning  
17 board or agency shall be in writing and shall be made within such  
18 time limits as the council may prescribe, beyond which the council  
19 shall make those determinations and no fee shall be paid to the  
20 county planning board or agency pursuant to this subsection.

21 d. In approving a **regional contribution** workforce housing  
22 transfer agreement, the council shall set forth in its resolution a  
23 schedule of the contributions to be appropriated annually by the  
24 sending municipality. A copy of the adopted resolution shall be  
25 filed promptly with the Director of the Division of Local  
26 Government Services in the Department of Community Affairs, and  
27 the director shall thereafter not approve an annual budget of a  
28 sending municipality if it does not include appropriations necessary  
29 to meet the terms of the resolution. Amounts appropriated by a  
30 sending municipality for a **regional contribution** workforce  
31 housing transfer agreement pursuant to this section are exempt from  
32 the limitations or increases in final appropriations imposed under  
33 P.L.1976, c.68 (C.40A:4-45.1 et seq.).

34 e. The council shall maintain current lists of municipalities  
35 which have stated an intent to enter into **regional contribution**  
36 workforce housing transfer agreements as receiving municipalities,  
37 and shall establish procedures for filing statements of intent with  
38 the council. No receiving municipality shall be required to accept a  
39 greater number of low and moderate income units through an  
40 agreement than it has expressed a willingness to accept in its  
41 statement, but the number stated shall not be less than a reasonable  
42 minimum number of units, not to exceed 100, as established by the  
43 council. The council shall require a project plan from a receiving  
44 municipality prior to the entering into of the agreement, and shall  
45 submit the project plan to the agency for its review as to the  
46 feasibility of the plan prior to the council's approval of the  
47 agreement. The agency may recommend and the council may  
48 approve as part of the project plan a provision that the time

1 limitations for contractual guarantees or resale controls for low and  
2 moderate income units included in the project shall be less than 30  
3 years, if it is determined that modification is necessary to assure the  
4 economic viability of the project.

5 f. The council shall establish guidelines for the duration and  
6 amount of contributions in **【regional contribution】** workforce  
7 housing transfer agreements. In doing so, the council shall give  
8 substantial consideration to the average of: (1) the median amount  
9 required to rehabilitate a low and moderate income unit up to code  
10 enforcement standards; (2) the average internal subsidization  
11 required for a developer to provide a low and moderate income  
12 housing unit in an inclusionary development; (3) the average  
13 internal subsidization required for a developer to provide a  
14 moderate income housing unit in an inclusionary development.  
15 Contributions may be prorated in municipal appropriations  
16 occurring over a period not to exceed ten years and may include an  
17 amount agreed upon to compensate or partially compensate the  
18 receiving municipality for infrastructure or other costs generated to  
19 the receiving municipality by the development. Appropriations  
20 shall be made and paid directly to the receiving municipality or  
21 municipalities or to the agency or other governmental entity  
22 designated by the council, as the case may be.

23 g. The council shall require receiving municipalities to file  
24 annual reports with the agency setting forth the progress in  
25 implementing a project funded under a **【regional contribution】**  
26 workforce housing transfer agreement, and the agency shall provide  
27 the council with its evaluation of each report. The council shall  
28 take such actions as may be necessary to enforce a **【regional**  
29 **contribution】** workforce housing transfer agreement with respect to  
30 the timely implementation of the project by the receiving  
31 municipality.

32 **【No consideration shall be given to any regional contribution**  
33 **agreement for which the council did not complete its review and**  
34 **grant approval prior to the effective date of P.L.2008,**  
35 **c.46 (C.52:27D-329.1 et al.). On or after the effective date of**  
36 **P.L.2008, c.46 (C.52:27D-329.1 et al.), no regional contribution**  
37 **agreement shall be entered into by a municipality, or approved by**  
38 **the council or the court.】**

39 h. A workforce housing transfer agreement shall not transfer  
40 any portion of a municipality's fair share obligation that is  
41 attributable to low income housing. Following the effective date of  
42 P.L. , c. (C. ) (pending before the Legislature as this bill),  
43 two municipalities may enter into a workforce housing transfer  
44 agreement to transfer to the receiving municipality a portion of the  
45 sending municipality's fair share obligation that is attributable to  
46 moderate income housing, as follows:

47 (1) A workforce housing transfer agreement shall decrease the  
48 moderate income housing share of the sending municipality in

1 proportion to the number of units transferred pursuant to the  
2 agreement. The moderate income housing share of the sending  
3 municipality shall equal zero percent if the municipality transfers  
4 50 percent of its fair share obligation. The affordability average of  
5 price-restricted units in a new development in the sending  
6 municipality shall be adjusted to a lower percentage of median  
7 income, by household size for the applicable county, in proportion  
8 to the number of moderate income units that were transferred as a  
9 result of the workforce housing transfer agreement;

10 (2) A workforce housing transfer agreement shall increase the  
11 moderate income housing share of the receiving municipality in  
12 proportion to the number of units accepted pursuant to the  
13 agreement. The affordability average of price-restricted units in a  
14 new development in the receiving municipality shall be adjusted to  
15 a higher percentage of median income, by household size for the  
16 applicable county, in proportion to the number of moderate income  
17 units that were added as a result of the workforce housing transfer  
18 agreement; and

19 (3) A workforce housing transfer agreement shall only be  
20 approved if the sending municipality provides the receiving  
21 municipality funds in an amount not less than the amount of funds  
22 necessary to defray the costs of construction associated with  
23 fulfilling the moderate income housing obligations, transferred  
24 pursuant to the agreement, if the construction occurred within the  
25 sending municipality.

26 (cf: P.L.2008, c.46, s.16)

27  
28 8. Section 14 of P.L.1985, c.222 (C.52:27D-314) is amended to  
29 read as follows:

30 14. Unless an objection to the substantive certification is filed  
31 with the council by any person within 45 days of the publication of  
32 the notice of the municipality's petition, the council shall review the  
33 petition and shall issue a substantive certification if it shall find  
34 that:

35 a. The municipality's fair share plan is consistent with the rules  
36 and criteria adopted by the council and not inconsistent with  
37 achievement of the low and moderate income housing needs of the  
38 region as adjusted pursuant to the council's criteria and guidelines  
39 adopted pursuant to subsection c. of section 7 of **[this act]**  
40 P.L.1985, c.222 (C.52:27D-307); and

41 b. The combination of the elimination of unnecessary housing  
42 cost-generating features from the municipal land use ordinances and  
43 regulations, and the affirmative measures in the housing element  
44 and implementation plan make the achievement of the  
45 municipality's fair share of low and moderate income housing  
46 realistically possible after allowing for the implementation of any  
47 regional contribution or workforce housing transfer agreement  
48 approved by the council.

1 In conducting its review, the council may meet with the  
2 municipality and may deny the petition or condition its certification  
3 upon changes in the element or ordinances. Any denial or  
4 conditions for approval shall be in writing and shall set forth the  
5 reasons for the denial or conditions. If, within 60 days of the  
6 council's denial or conditional approval, the municipality refiles its  
7 petition with changes satisfactory to the council, the council shall  
8 issue a substantive certification.

9 Once substantive certification is granted, the municipality shall  
10 have 45 days in which to adopt its fair share housing ordinance  
11 approved by the council.  
12 (cf: P.L.1985, c.222, s.14)

13  
14 9. Section 17 of P.L.1985, c.222 (C.52:27D-317) is amended to  
15 read as follows:

16 17. a. In any exclusionary zoning case filed against a  
17 municipality which has a substantive certification and in which  
18 there is a requirement to exhaust the review and mediation process  
19 pursuant to section 16 of **[this act]** P.L.1985, c.222 (C.52:27D-  
20 316), there shall be a presumption of validity attaching to the  
21 housing element and ordinances implementing the housing element.  
22 To rebut the presumption of validity, the complainant shall have the  
23 burden of proof to demonstrate by clear and convincing evidence  
24 that the housing element and ordinances implementing the housing  
25 element do not provide a realistic opportunity for the provision of  
26 the municipality's fair share of low and moderate income housing  
27 after allowing for the implementation of any **[regional**  
28 **contribution]** workforce housing transfer agreement approved by  
29 the council.

30 b. There shall be a presumption of validity attaching to any  
31 regional contribution or workforce housing transfer agreement  
32 approved by the council. To rebut the presumption of validity, the  
33 complainant shall have the burden of proof to demonstrate by clear  
34 and convincing evidence that the agreement does not provide for a  
35 realistic opportunity for the provision of low and moderate income  
36 housing within the housing region. A workforce housing transfer  
37 agreement shall not be construed as invalid due to a resulting  
38 decrease in the fair share obligation of the housing region in which  
39 a sending municipality is located.

40 c. The council shall be made a party to any exclusionary  
41 zoning suit against a municipality which receives substantive  
42 certification, and shall be empowered to present to the court its  
43 reasons for granting substantive certification.  
44 (cf: P.L.1985, c.222, s.17)

45  
46 10. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to  
47 read as follows:

1       20. There is established in the Department of Community  
2       Affairs a separate trust fund, to be used for the exclusive purposes  
3       as provided in this section, and which shall be known as the "New  
4       Jersey Affordable Housing Trust Fund." The fund shall be a non-  
5       lapsing, revolving trust fund, and all monies deposited or received  
6       for purposes of the fund shall be accounted for separately, by source  
7       and amount, and remain in the fund until appropriated for such  
8       purposes. The fund shall be the repository of all State funds  
9       appropriated for affordable housing purposes, including, but not  
10      limited to, the proceeds from the receipts of the additional fee  
11      collected pursuant to paragraph (2) of subsection a. of section 3 of  
12      P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the  
13      Statewide non-residential development fees collected pursuant to  
14      section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or  
15      reverting from municipal development trust funds, or other monies  
16      as may be dedicated, earmarked, or appropriated by the Legislature  
17      for the purposes of the fund. All references in any law, order, rule,  
18      regulation, contract, loan, document, or otherwise, to the  
19      "Neighborhood Preservation Nonlapsing Revolving Fund" shall  
20      mean the "New Jersey Affordable Housing Trust Fund." The  
21      department shall be permitted to utilize annually up to 7.5 percent  
22      of the monies available in the fund for the payment of any  
23      necessary administrative costs related to the administration of the  
24      "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any  
25      costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et  
26      al.).

27      a. Except as permitted pursuant to subsection g. of this section,  
28      and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the  
29      commissioner shall award grants or loans from this fund for  
30      housing projects and programs in municipalities whose housing  
31      elements have received substantive certification from the council, in  
32      municipalities receiving State aid pursuant to P.L.1978, c.14  
33      (C.52:27D-178 et seq.), in municipalities subject to a builder's  
34      remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),  
35      or in receiving municipalities in cases where the council has  
36      approved a regional contribution or workforce housing transfer  
37      agreement and a project plan developed by the receiving  
38      municipality.

39      Of those monies deposited into the "New Jersey Affordable  
40      Housing Trust Fund" that are derived from municipal development  
41      fee trust funds, or from available collections of Statewide non-  
42      residential development fees, a priority for funding shall be  
43      established for projects in municipalities that have petitioned the  
44      council for substantive certification. Of those monies deposited  
45      into the "New Jersey Affordable Housing Trust Fund" that are  
46      derived from the receipts of the additional fee collected pursuant to  
47      paragraph (2) of subsection a. of section 3 of P.L.1968, c.49  
48      (C.46:15-7), a priority for funding shall be established for projects



1 in municipalities for which the moderate income housing obligation  
2 is increased pursuant to a workforce housing transfer agreement, as  
3 set forth in section 12 of P.L.1985, c.222 (C.52:27D-312).

4 Programs and projects in any municipality shall be funded only  
5 after receipt by the commissioner of a written statement in support  
6 of the program or project from the municipal governing body.

7 b. The commissioner shall establish rules and regulations  
8 governing the qualifications of applicants, the application  
9 procedures, and the criteria for awarding grants and loans and the  
10 standards for establishing the amount, terms, and conditions of each  
11 grant or loan.

12 c. For any period which the council may approve, the  
13 commissioner may assist affordable housing programs which are  
14 not located in municipalities whose housing elements have been  
15 granted substantive certification or which are not in furtherance of a  
16 regional contribution or workforce housing transfer agreement;  
17 provided that the affordable housing program will meet all or part  
18 of a municipal low and moderate income housing obligation.

19 d. Amounts deposited in the "New Jersey Affordable Housing  
20 Trust Fund" shall be targeted to regions based on the region's  
21 percentage of the State's low and moderate income housing need as  
22 determined by the council. Amounts in the fund shall be applied for  
23 the following purposes in designated neighborhoods:

24 (1) Rehabilitation of substandard housing units occupied or to  
25 be occupied by low and moderate income households;

26 (2) Creation of accessory apartments to be occupied by low and  
27 moderate income households;

28 (3) Conversion of non-residential space to residential purposes;  
29 provided a substantial percentage of the resulting housing units are  
30 to be occupied by low and moderate income households;

31 (4) Acquisition of real property, demolition and removal of  
32 buildings, or construction of new housing that will be occupied by  
33 low and moderate income households, or any combination thereof;

34 (5) Grants of assistance to eligible municipalities for costs of  
35 necessary studies, surveys, plans, and permits; engineering,  
36 architectural, and other technical services; costs of land acquisition  
37 and any buildings thereon; and costs of site preparation, demolition,  
38 and infrastructure development for projects undertaken pursuant to  
39 an approved regional contribution or workforce housing transfer  
40 agreement;

41 (6) Assistance to a local housing authority, nonprofit or limited  
42 dividend housing corporation, or association or a qualified entity  
43 acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for  
44 rehabilitation or restoration of housing units which it administers  
45 which: (a) are unusable or in a serious state of disrepair; (b) can be  
46 restored in an economically feasible and sound manner; and (c) can  
47 be retained in a safe, decent, and sanitary manner, upon completion  
48 of rehabilitation or restoration; and

1 (7) Other housing programs for low and moderate income  
2 housing, including, without limitation, (a) infrastructure projects  
3 directly facilitating the construction of low and moderate income  
4 housing not to exceed a reasonable percentage of the construction  
5 costs of the low and moderate income housing to be provided and  
6 (b) alteration of dwelling units occupied or to be occupied by  
7 households of low or moderate income and the common areas of the  
8 premises in which they are located in order to make them accessible  
9 to persons with disabilities.

10 e. Any grant or loan agreement entered into pursuant to this  
11 section shall incorporate contractual guarantees and procedures by  
12 which the division will ensure that any unit of housing provided for  
13 low and moderate income households shall continue to be occupied  
14 by low and moderate income households for at least 20 years  
15 following the award of the loan or grant, except that the division  
16 may approve a guarantee for a period of less than 20 years where  
17 necessary to ensure project feasibility.

18 f. Notwithstanding the provisions of any other law, rule, or  
19 regulation to the contrary, in making grants or loans under this  
20 section, the department shall not require that tenants be certified as  
21 low or moderate income or that contractual guarantees or deed  
22 restrictions be in place to ensure continued low and moderate  
23 income occupancy as a condition of providing housing assistance  
24 from any program administered by the department, when that  
25 assistance is provided for a project of moderate rehabilitation if the  
26 project: (1) contains 30 or fewer rental units; and (2) is located in a  
27 census tract in which the median household income is 60 percent or  
28 less of the median income for the housing region in which the  
29 census tract is located, as determined for a three person household  
30 by the council in accordance with the latest federal decennial  
31 census. A list of eligible census tracts shall be maintained by the  
32 department and shall be adjusted upon publication of median  
33 income figures by census tract after each federal decennial census.

34 g. In addition to other grants or loans awarded pursuant to this  
35 section, and without regard to any limitations on such grants or  
36 loans for any other purposes herein imposed, the commissioner  
37 shall annually allocate such amounts as may be necessary in the  
38 commissioner's discretion, and in accordance with section 3 of  
39 P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants  
40 under the program created pursuant to P.L.2004, c.140 (C.52:27D-  
41 287.1 et al.). Such rental assistance grants shall be deemed  
42 necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-  
43 301 et al.), in order to meet the housing needs of certain low income  
44 households who may not be eligible to occupy other housing  
45 produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

46 h. The department and the State Treasurer shall submit the  
47 "New Jersey Affordable Housing Trust Fund" for an audit annually  
48 by the State Auditor or State Comptroller, at the discretion of the

1     Treasurer. In addition, the department shall prepare an annual  
2     report for each fiscal year, and submit it by November 30th of each  
3     year to the Governor and the Legislature, and the Joint Committee  
4     on Housing Affordability, or its successor, and post the information  
5     to its web site, of all activity of the fund, including details of the  
6     grants and loans by number of units, number and income ranges of  
7     recipients of grants or loans, location of the housing renovated or  
8     constructed using monies from the fund, the number of units upon  
9     which affordability controls were placed, and the length of those  
10    controls. The report also shall include details pertaining to those  
11    monies allocated from the fund for use by the State rental assistance  
12    program pursuant to section 3 of P.L.2004, c.140 (C.52:27D-287.3)  
13    and subsection g. of this section.

14    i. The commissioner may award or grant the amount of any  
15    appropriation deposited in the "New Jersey Affordable Housing  
16    Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-  
17    320.1) to municipalities pursuant to the provisions of section 39 of  
18    P.L.2009, c.90 (C.40:55D-8.8).  
19    (cf: P.L.2017, c.131, s.200)

20  
21    11. Section 21 of P.L.1985, c.222 (C.52:27D-321) is amended to  
22    read as follows:

23    21. The agency shall establish affordable housing programs to  
24    assist municipalities in meeting the obligation of developing  
25    communities to provide low and moderate income housing.

26    a. Of the bond authority allocated to it under section 24 of  
27    P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a  
28    reasonable period of time established by its board, no less than  
29    **【25%】** 25 percent to be used in conjunction with housing to be  
30    constructed or rehabilitated with assistance under **【this act】**  
31    P.L.1985, c.222 (C.52:27D-301 et al.).

32    b. The agency shall to the extent of available funds, award  
33    assistance to affordable housing programs located in municipalities  
34    whose housing elements have received substantive certification  
35    from the council, or which have been subject to a builder's remedy  
36    or which are in furtherance of a regional contribution or workforce  
37    housing transfer agreement approved by the council. During the  
38    first 12 months from the effective date of **【this act】** P.L.1985, c.222  
39    (C.52:27D-301 et al.) and for any additional period which the  
40    council may approve, the agency may assist affordable housing  
41    programs which are not located in municipalities whose housing  
42    elements have been granted substantive certification or which are  
43    not in furtherance of a regional contribution or workforce housing  
44    transfer agreement; provided the affordable housing program will  
45    meet all or in part a municipal low and moderate income housing  
46    obligation.

47    c. Assistance provided pursuant to this section may take the  
48    form of grants or awards to municipalities, prospective home

1 purchasers, housing sponsors as defined in P.L.1983, c.530  
2 (C.55:14K-1 et seq.), or as contributions to the issuance of  
3 mortgage revenue bonds or multi-family housing development  
4 bonds which have the effect of achieving the goal of producing  
5 affordable housing.

6 d. Affordable housing programs which may be financed or  
7 assisted under this provision may include, but are not limited to:

8 (1) Assistance for home purchase and improvement including  
9 interest rate assistance, down payment and closing cost assistance,  
10 and direct grants for principal reduction;

11 (2) Rental programs including loans or grants for developments  
12 containing low and moderate income housing, moderate  
13 rehabilitation of existing rental housing, congregate care and  
14 retirement facilities;

15 (3) Financial assistance for the conversion of nonresidential  
16 space to residences;

17 (4) Other housing programs for low and moderate income  
18 housing, including infrastructure projects directly facilitating the  
19 construction of low and moderate income housing; and

20 (5) Grants or loans to municipalities, housing sponsors and  
21 community organizations to encourage development of innovative  
22 approaches to affordable housing, including:

23 (a) Such advisory, consultative, training and educational  
24 services as will assist in the planning, construction, rehabilitation  
25 and operation of housing; and

26 (b) Encouraging research in and demonstration projects to  
27 develop new and better techniques and methods for increasing the  
28 supply, types and financing of housing and housing projects in the  
29 State.

30 e. The agency shall establish procedures and guidelines  
31 governing the qualifications of applicants, the application  
32 procedures and the criteria for awarding grants and loans for  
33 affordable housing programs and the standards for establishing the  
34 amount, terms and conditions of each grant or loan. When  
35 awarding grants or loans for affordable housing programs, the  
36 agency shall give preference to those programs situated in  
37 municipalities for which the moderate income housing obligation is  
38 increased pursuant to a workforce housing transfer agreement, as  
39 set forth in section 12 of P.L.1985, c.222 (C.52:27D-312).

40 f. In consultation with the council, the agency shall establish  
41 requirements and controls to insure the maintenance of housing  
42 assisted under **[this act]** P.L.1985, c.222 (C.52:27D-301 et al.) as  
43 affordable to low and moderate income households for a period of  
44 not less than 20 years; provided that the agency may establish a  
45 shorter period upon a determination that the economic feasibility of  
46 the program is jeopardized by the requirement and the public  
47 purpose served by the program outweighs the shorter period. The  
48 controls may include, among others, requirements for recapture of

1 assistance provided pursuant to **【this act】** P.L.1985, c.222  
2 (C.52:27D-301 et al.) or restrictions on return on equity in the event  
3 of failure to meet the requirements of the program. With respect to  
4 rental housing financed by the agency pursuant to **【this act】**  
5 P.L.1985, c.222 (C.52:27D-301 et al.) or otherwise which promotes  
6 the provision or maintenance of low and moderate income housing,  
7 the agency may waive restrictions on return on equity required  
8 pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) which is gained  
9 through the sale of the property or of any interest in the property or  
10 sale of any interest in the housing sponsor.

11 g. The agency may establish affordable housing programs  
12 through the use or establishment of subsidiary corporations or  
13 development corporations as provided in P.L.1983, c.530  
14 (C.55:14K-1 et seq.). The subsidiary corporations or development  
15 corporations shall be eligible to receive funds provided under **【this**  
16 **act】** P.L.1985, c.222 (C.52:27D-301 et al.) for any permitted  
17 purpose.

18 h. The agency shall provide assistance, through its bonding  
19 powers or in any other manner within its powers, to the grant and  
20 loan program established pursuant to section 20 of P.L.1985, c.222  
21 (C.52:27D-320).  
22 (cf: P.L.2004, c.140, s.5)  
23

24 12. Section 12 of P.L.2008, c.46 (C.52:27D-329.6) is amended  
25 to read as follows:

26 12. The Legislature finds and declares that:

27 a. The transfer of a portion of the fair share obligations among  
28 municipalities has proven to not be a viable method of ensuring that  
29 an adequate supply and variety of low and very low income housing  
30 choices are provided in municipalities experiencing growth.  
31 Therefore, although a workforce housing transfer agreement shall  
32 be available pursuant to P.L. , c. (C. ) (pending before the  
33 Legislature as this bill), as a mechanism for the transfer of a  
34 municipality's moderate income housing share, the use of a regional  
35 contribution agreement shall no longer be permitted **【under】**  
36 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

37 b. **【Although the elimination of the regional contribution**  
38 **agreement as a tool for the production of affordable housing**  
39 **pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), will impact on**  
40 **some proposed agreements awaiting approval, it is for a public**  
41 **purpose and for the public good that such contracts be declared void**  
42 **for the current and future housing obligation rounds.】** (Deleted by  
43 amendment, P.L. , c. ) (pending before the Legislature as this  
44 bill)

45 c. There is a need to assist municipalities in the rehabilitation  
46 of housing for occupancy by low and moderate income households.  
47 To this end, a specific program for housing rehabilitation by  
48 municipalities would best serve this need. It is the intent of the

1 Legislature that this program, as well as funds earmarked for the  
2 purposes of the program, will be utilized, especially in urban areas  
3 which were the main recipients of regional contribution agreements,  
4 to continue to upgrade housing stock in order to provide a wide  
5 variety and choice of housing for persons living in those areas.

6 d. There is also a need to provide funding to municipalities to  
7 create additional incentives and assistance for the production of  
8 safe, decent, and affordable rental and other housing.  
9 (cf: P.L.2008, c.46, s.12)

10

11 13. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to  
12 read as follows:

13 5. The requirements of this act shall not apply to:

14 a. Depository institutions; but subsidiaries and service  
15 corporations of these institutions shall not be exempt. A depository  
16 institution may register with the department for the purpose of  
17 sponsoring individuals, licensed as mortgage loan originators  
18 subject to subparagraph (b) of paragraph (1) of subsection c. of  
19 section 4 of P.L.2009, c.53 (C.17:11C-54), provided that such  
20 registered entity obtains and maintains bond coverage for mortgage  
21 loan originators consistent with section 13 of P.L.2009, c.53  
22 (C.17:11C-63). A depository institution registered with the  
23 department in accordance with this subsection a. shall otherwise  
24 remain exempt from the licensing requirements of P.L.2009, c.53  
25 (C.17:11C-51 et seq.).

26 b. A registered mortgage loan originator that is registered  
27 under the federal "Secure and Fair Enforcement for Mortgage  
28 Licensing Act of 2008," title V of Pub.L.110-289 (12 U.S.C. s.5101  
29 et seq.).

30 c. A licensed attorney who negotiates the terms of a residential  
31 mortgage loan on behalf of a client as an ancillary matter to the  
32 attorney's representation of the client, unless the attorney is  
33 compensated by a residential mortgage lender, residential mortgage  
34 broker, or mortgage loan originator.

35 d. A person licensed as a real estate broker or salesperson  
36 pursuant to R.S.45:15-1 et seq., and not engaged in the business of a  
37 residential mortgage lender or residential mortgage broker. Any  
38 person holding a license under this act as a residential mortgage  
39 lender or broker shall be exempt from the licensing and other  
40 requirements of R.S.45:15-1 et seq. in the performance of those  
41 functions authorized by this act.

42 e. Any employer, other than a residential mortgage lender, who  
43 provides residential mortgage loans to his employees as a benefit of  
44 employment which are at an interest rate which is not in excess of  
45 the usury rate in existence at the time the loan is made, as  
46 established in accordance with the law of this State, and on which  
47 the borrower has not agreed to pay, directly or indirectly, any  
48 charge, cost, expense or any fee whatsoever, other than that interest.

1 f. The State of New Jersey or a municipality, or any agency or  
2 instrumentality thereof, which, in accordance with a housing  
3 element that has received substantive certification from the Council  
4 on Affordable Housing pursuant to the "Fair Housing Act,"  
5 P.L.1985, c.222 (C.52:27D-301 et al.), or in fulfillment of a  
6 regional contribution or workforce housing transfer agreement with  
7 a municipality that has received a certification, employs or proposes  
8 to employ municipally generated funds, funds obtained through any  
9 State or federal subsidy, or funds acquired by the municipality  
10 under a regional contribution or workforce housing transfer  
11 agreement, to finance the provision of affordable housing by  
12 extending loans or advances, the repayment of which is secured by  
13 a lien, subordinate to any prior lien, upon the property that is to be  
14 rehabilitated.

15 g. Any individual who offers or negotiates terms of a  
16 residential mortgage loan:

17 (1) with or on behalf of an immediate family member; or

18 (2) secured by a dwelling that serves as the individual's  
19 residence.

20 h. Any person who, during a calendar year takes three or fewer  
21 residential mortgage loan applications or offers or negotiates the  
22 terms of three or fewer residential mortgage loans or makes three or  
23 fewer residential mortgage loans related to manufactured housing  
24 structures which are:

25 (1) titled by the New Jersey Motor Vehicle Commission;

26 (2) located in a mobile home park as defined in subsection e. of  
27 section 3 of P.L.1983, c.400 (C.54:4-1.4); and

28 (3) exempt from taxation as real property pursuant to subsection  
29 b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

30 i. A bona fide not for profit entity and any individuals directly  
31 employed by that entity, so long as the entity maintains its tax  
32 exempt status under Section 501(c)(3) of the Internal Revenue Code  
33 of 1986 and otherwise meets the definition of "bona fide not for  
34 profit entity" in section 3 of P.L.2009, c.53 (C.17:11C-53), as  
35 periodically determined by the department in accordance with rules  
36 established by the commissioner.

37 (cf: P.L.2018, c.108, s.3)

38  
39 14. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to  
40 read as follows:

41 9. a. State debt service aid for capital investment in school  
42 facilities for a district other than an SDA district which elects not to  
43 finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-  
44 15), shall be distributed upon a determination of preliminary  
45 eligible costs by the commissioner, according to the following  
46 formula:

1 Aid is the sum of A for each issuance of school bonds issued for  
2 a school facilities project approved by the commissioner after the  
3 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

4 where

5  $A = B \times AC/P \times DAP \times M$ , with  $AC/P = 1$

6 whenever  $AC/P$  would otherwise yield a number greater than one,  
7 and where:

8 B is the district's debt service for the individual issuance for the  
9 fiscal year;

10 AC is the preliminary eligible costs determined pursuant to  
11 section 7 of P.L.2000, c.72 (C.18A:7G-7);

12 P is the principal of the individual issuance plus any other  
13 funding sources approved for the school facilities project;

14 DAP is the district's district aid percentage as defined pursuant to  
15 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not  
16 be less than 40%; and

17 M is a factor representing the degree to which a district has  
18 fulfilled maintenance requirements for a school facilities project  
19 determined pursuant to subsection b. of this section.

20 For county special services school districts, DAP shall be that of  
21 the county vocational school district in the same county.

22 Notwithstanding the provisions of this subsection to the contrary,  
23 DAP for a county vocational school district school facilities project  
24 that is approved by the commissioner following the effective date of  
25 P.L.2009, c.185 shall equal the greater of the district's district aid  
26 percentage as defined pursuant to section 3 of P.L.2000, c.72  
27 (C.18A:7G-3) or the percentage of the students in the county  
28 vocational school district's resident enrollment who reside in SDA  
29 districts; except that DAP shall not be less than 40% or greater than  
30 90%.

31 Notwithstanding the provisions of this subsection to the contrary,  
32 DAP for a district school facilities project that is approved by the  
33 commissioner following the effective date of P.L. , c. (C. )  
34 (pending before the Legislature as this bill), and that is located  
35 within a school district that contains a municipality for which the  
36 moderate income housing obligation is increased pursuant to a  
37 workforce housing transfer agreement, as set forth in section 12 of  
38 P.L.1985, c.222 (C.52:27D-312), shall be increased by not less than  
39 10% and not more than 30%, as determined by the commissioner  
40 based on the extent to which the agreement necessitated the district  
41 school facilities project, except that the DAP shall not be greater  
42 than 90%.

43 b. The maintenance factor (M) shall be 1.0 except when one of  
44 the following conditions applies, in which case the maintenance  
45 factor shall be as specified:

46 (1) Effective ten years from the date of the enactment of  
47 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid  
48 for reconstruction, remodeling, alteration, modernization,



1 renovation or repair, or for an addition to a school facility, shall be  
2 zero for all school facilities projects for which the district fails to  
3 demonstrate over the ten years preceding issuance a net investment  
4 in maintenance of the related school facility of at least 2% of the  
5 replacement cost of the school facility, determined pursuant to  
6 subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7) using the  
7 area cost allowance of the year ten years preceding the year in  
8 which the school bonds are issued.

9 (2) For new construction, additions, and school facilities aided  
10 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)  
11 supported by financing issued for projects approved by the  
12 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-  
13 1 et al.), beginning in the fourth year after occupancy of the school  
14 facility, the maintenance factor shall be reduced according to the  
15 following schedule for all school facilities projects for which the  
16 district fails to demonstrate in the prior fiscal year an investment in  
17 maintenance of the related school facility of at least two-tenths of  
18 1% of the replacement cost of the school facility, determined  
19 pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-  
20 7).

Maintenance Percentage	Maintenance Factor (M)
.199% - .151%	75%
.150% - .100%	50%
Less than .100%	Zero

25 (3) Within one year of the enactment of P.L.2000, c.72  
26 (C.18A:7G-1 et al.), the commissioner shall promulgate rules  
27 requiring districts to develop a long-range maintenance plan and  
28 specifying the expenditures that qualify as an appropriate  
29 investment in maintenance for the purposes of this subsection.

30 c. Any district which obtained approval from the commissioner  
31 since September 1, 1998 and prior to the effective date of P.L.2000,  
32 c.72 (C.18A:7G-1 et al.) of the educational specifications for a  
33 school facilities project or obtained approval from the Department  
34 of Community Affairs or the appropriately licensed municipal code  
35 official since September 1, 1998 of the final construction plans and  
36 specifications, and the district has issued debt, may elect to have the  
37 final eligible costs of the project determined pursuant to section 5 of  
38 P.L.2000, c.72 (C.18A:7G-5) and to receive debt service aid under  
39 this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10).

40 Any district which received approval from the commissioner for  
41 a school facilities project at any time prior to the effective date of  
42 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other  
43 than short term notes, may submit an application pursuant to section  
44 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of  
45 the project determined pursuant to that section and to have the New  
46 Jersey Economic Development Authority construct the project; or,  
47 at its discretion, the district may choose to receive debt service aid  
48 under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-

1 10) or to receive a grant under section 15 of P.L.2000, c.72  
2 (C.18A:7G-15).

3 For the purposes of this subsection, the "issuance of debt" shall  
4 include lease purchase agreements in excess of five years.

5 d. For school bonds issued for a school facilities project after  
6 the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to  
7 the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.), State  
8 debt service aid shall be calculated in accordance with the  
9 provisions of this section as the same read before the effective date  
10 of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

11 (cf: P.L.2009, c.185, s.2)

12  
13 15. Section 25 of P.L.1984, c.73 (C.27:1B-25) is amended to  
14 read as follows:

15 25. a. Notwithstanding the provisions of subtitle 4 of Title 27  
16 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.),  
17 the commissioner may, pursuant to appropriations or authorizations  
18 being made from time to time by the Legislature according to law,  
19 allocate to counties and municipalities funds for the planning,  
20 acquisition, engineering, construction, reconstruction, repair,  
21 resurfacing and rehabilitation of public highways and the planning,  
22 acquisition, engineering, construction, reconstruction, repair,  
23 maintenance and rehabilitation of public transportation projects and  
24 of other transportation projects which a county or municipality may  
25 be authorized by law to undertake.

26 b. The commissioner shall, pursuant to appropriations or  
27 authorizations being made from time to time by the Legislature  
28 according to law, allocate at his discretion State aid to counties and  
29 municipalities for transportation projects, except that the amount to  
30 be appropriated for this program shall be seven percent of the total  
31 amount appropriated pursuant to subsection d. of this section. This  
32 State aid shall be set aside prior to any formula allocations provided  
33 for in subsections c., d., e., f., and g. of this section, and shall be  
34 known as the "Local Aid Infrastructure Fund." In the fiscal year  
35 commencing July 1, 2016, any amount appropriated to the Local  
36 Aid Infrastructure Fund above \$7,500,000 shall be deposited into  
37 the State Transportation Infrastructure Bank Fund, established  
38 pursuant to section 34 of P.L.2016, c.56 (C.58:11B-10.4).

39 c. The commissioner shall, pursuant to appropriations or  
40 authorizations being made from time to time by the Legislature  
41 according to law and pursuant to the provisions of subsections b.  
42 and d. of this section, allocate State aid to municipalities for public  
43 highways under their jurisdiction. The amount to be appropriated  
44 shall be allocated on the basis of the following distribution factor:

$$\text{DF} = \frac{\text{Pc}}{\text{Ps}} + \frac{\text{Cm}}{\text{Sm}}$$

48 where, DF equals the distribution factor

1 Pc equals county population

2 Ps equals State population

3 Cm equals municipal road mileage within the county

4 Sm equals municipal road mileage within the State.

5 After the amount of aid has been allocated based on the above  
6 formula, the commissioner shall determine priority for the funding  
7 of municipal projects within each county, based upon criteria  
8 relating to volume of traffic, safety considerations, growth  
9 potential, readiness to obligate funds, and local taxing capacity;  
10 provided, however, that municipal projects located in municipalities  
11 for which the moderate income housing obligation is increased  
12 pursuant to a workforce housing transfer agreement, as set forth in  
13 section 12 of P.L.1985, c.222 (C.52:27D-312), shall also receive  
14 priority for funding. In addition to the above criteria used in  
15 determining priority of funding of municipal projects in each  
16 county, the commissioner shall consider whether a project is  
17 intended to remedy hazardous conditions as identified for the  
18 purposes of providing transportation pursuant to N.J.S.18A:39-1.2  
19 for school pupils or to improve pedestrian safety.

20 For the purposes of this subsection, (1) "population" means the  
21 official population count as reported by the New Jersey Department  
22 of Labor and Workforce Development; and (2) "municipal road  
23 mileage" means that road mileage under the jurisdiction of  
24 municipalities, as determined by the department.

25 d. There shall be appropriated at least \$175,000,000 for each  
26 fiscal year commencing July 1, 2006 through the fiscal year  
27 commencing July 1, 2015, and \$400,000,000 for each fiscal year  
28 commencing July 1, 2016 and for each fiscal year thereafter, for the  
29 purposes provided herein and in subsections b., c., e., f., and g. of  
30 this section. (1) Of that appropriation, the commissioner shall  
31 allocate 37.5 percent of the total appropriation as State aid for  
32 municipalities pursuant to the provisions of subsection c. of this  
33 section, provided that \$5,000,000 for each fiscal year commencing  
34 July 1, 2006 through the fiscal year commencing July 1, 2015, and  
35 \$10,000,000 for each fiscal year commencing July 1, 2016 and for  
36 each fiscal year thereafter of the amount allocated as State aid for  
37 municipalities shall be set aside and sub-allocated as State aid to  
38 any municipality qualifying for aid pursuant to the provisions of  
39 P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall  
40 allocate the aid to each municipality in the same proportion that the  
41 municipality receives aid under P.L.1978, c.14 (C.52:27D-178 et  
42 seq.). (2) The commissioner shall allocate 37.5 percent of the total  
43 appropriation pursuant to the provisions of subsection e. of this  
44 section for the Local County Aid Program. (3) The commissioner  
45 shall allocate seven percent of the total appropriation pursuant to  
46 the provisions of subsection b. of this section for the "Local Aid  
47 Infrastructure Fund." (4) The commissioner shall allocate seven  
48 percent of the appropriation pursuant to the provisions of subsection

1 f. of this section for the "Local Freight Impact Fund." (5) The  
2 remaining 11 percent of the appropriation shall be allocated  
3 pursuant to the provisions of subsection g. of this section for the  
4 "Local Bridges Fund."

5 e. The commissioner may, pursuant to appropriations or  
6 authorizations being made from time to time by the Legislature  
7 according to law, allocate additional funding to the Local County  
8 Aid Program for public highway projects, in accordance with a  
9 formula similar to that provided for in subsection c. of this section,  
10 except that Cm equals road mileage under county jurisdiction and  
11 Sm equals total county road mileage within the State.

12 f. The commissioner shall, pursuant to appropriations or  
13 authorizations being made from time to time by the Legislature  
14 according to law, allocate at the commissioner's discretion, State aid  
15 to counties and municipalities for transportation projects that  
16 address the impacts of freight travel in local communities and on  
17 local transportation infrastructure, except that the amount to be  
18 appropriated for this program shall be seven percent of the total  
19 amount appropriated pursuant to subsection d. of this section. This  
20 State aid shall be set aside prior to any formula allocations provided  
21 for in subsections c., d., e., and g. of this section, and shall be  
22 known as the "Local Freight Impact Fund."

23 g. The commissioner shall, pursuant to appropriations or  
24 authorizations being made from time to time by the Legislature  
25 according to law, allocate at the commissioner's discretion, State aid  
26 to counties and municipalities for transportation projects that  
27 address the condition of bridges under the jurisdiction of counties  
28 with an emphasis on repair and reconstruction of those with the  
29 greatest structural deficiencies, except that the amount to be  
30 appropriated for this program shall be 11 percent of the total  
31 amount appropriated pursuant to subsection d. of this section. This  
32 State aid shall be set aside prior to any formula allocations provided  
33 for in subsections c., d., e., and f. of this section, and shall be  
34 known as the "Local Bridges Fund."

35 (cf: P.L.2016, c.56, s.9)

36

37 16. N.J.S.40A:2-3 is amended to read as follows:

38 40A:2-3. Any local unit, by bond ordinance, may incur  
39 indebtedness, borrow money, authorize and issue negotiable  
40 obligations for financing:

41 a. any capital improvement or property which it may lawfully  
42 make or acquire;

43 b. any purpose for which it is authorized or required by law to  
44 make an appropriation, except current expenses, as may be defined  
45 by rule and regulation of the Local Finance Board, and payment of  
46 obligations (other than those for temporary financing); or

47 c. the amount of any contribution by a local unit that is a  
48 sending municipality under a regional contribution or workforce

1 housing transfer agreement pursuant to section 12 of P.L.1985,  
2 c.222 (C.52:27D-312).

3 No local unit shall borrow money or issue its obligations for  
4 purposes authorized under this chapter except as provided in this  
5 chapter.

6 (cf: P.L.2007, c.62, s.16)

7  
8 17. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to  
9 read as follows:

10 3. In the preparation of its budget a municipality shall limit any  
11 increase in said budget to 2.5% or the cost-of-living adjustment,  
12 whichever is less, over the previous year's final appropriations  
13 subject to the following exceptions:

14 a. (Deleted by amendment, P.L.1990, c.89.)

15 b. Capital expenditures, including appropriations for current  
16 capital expenditures, whether in the capital improvement fund or as  
17 a component of a line item elsewhere in the budget, provided that  
18 any such current capital expenditure would be otherwise bondable  
19 under the requirements of N.J.S.40A:2-21 and 40A:2-22;

20 c. (1) An increase based upon emergency temporary  
21 appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent  
22 situation or event which immediately endangers the health, safety or  
23 property of the residents of the municipality, and over which the  
24 governing body had no control and for which it could not plan and  
25 emergency appropriations made pursuant to N.J.S.40A:4-46.  
26 Emergency temporary appropriations and emergency appropriations  
27 shall be approved by at least two-thirds of the governing body and  
28 by the Director of the Division of Local Government Services, and  
29 shall not exceed in the aggregate 3% of the previous year's final  
30 current operating appropriations.

31 (2) (Deleted by amendment, P.L.1990, c.89.)

32 The approval procedure in this subsection shall not apply to  
33 appropriations adopted for a purpose referred to in subsection d. or  
34 j. below;

35 d. All debt service, including that of a Type I school district;

36 e. Upon the approval of the Local Finance Board in the  
37 Division of Local Government Services, amounts required for  
38 funding a preceding year's deficit;

39 f. Amounts reserved for uncollected taxes;

40 g. (Deleted by amendment, P.L.1990, c.89.)

41 h. Expenditure of amounts derived from new or increased  
42 construction, housing, health or fire safety inspection or other  
43 service fees imposed by State law, rule or regulation or by local  
44 ordinance;

45 i. Any amount approved by any referendum;

46 j. Amounts required to be paid pursuant to (1) any contract  
47 with respect to use, service or provision of any project, facility or  
48 public improvement for water, sewerage, parking, senior citizen

1 housing or any similar purpose, or payments on account of debt  
2 service therefor, between a municipality and any other municipality,  
3 county, school or other district, agency, authority, commission,  
4 instrumentality, public corporation, body corporate and politic or  
5 political subdivision of this State; (2) the provisions of article 9 of  
6 P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent  
7 municipality to the intermunicipal account; (3) any lease of a  
8 facility owned by a county improvement authority when the lease  
9 payment represents the proportionate amount necessary to amortize  
10 the debt incurred by the authority in providing the facility which is  
11 leased, in whole or in part; and (4) any repayments under a loan  
12 agreement entered into in accordance with the provisions of section  
13 5 of P.L.1992, c.89 (C.40:48-2.5b);

14 k. (Deleted by amendment, P.L.1987, c.74.)

15 l. Appropriations of federal, county, independent authority or  
16 State funds, or by grants from private parties or nonprofit  
17 organizations for a specific purpose, and amounts received or to be  
18 received from such sources in reimbursement for local  
19 expenditures. If a municipality provides matching funds in order to  
20 receive the federal, county, independent authority or State funds, or  
21 the grants from private parties or nonprofit organizations for a  
22 specific purpose, the amount of the match which is required by law  
23 or agreement to be provided by the municipality shall be excepted;

24 m. (Deleted by amendment, P.L.1987, c.74.)

25 n. (Deleted by amendment, P.L.1987, c.74.)

26 o. (Deleted by amendment, P.L.1990, c.89.)

27 p. (Deleted by amendment, P.L.1987, c.74.)

28 q. (Deleted by amendment, P.L.1990, c.89.)

29 r. Amounts expended to fund a free public library established  
30 pursuant to the provisions of R.S.40:54-1 through 40:54-29,  
31 inclusive;

32 s. (Deleted by amendment, P.L.1990, c.89.)

33 t. Amounts expended in preparing and implementing a housing  
34 element and fair share plan pursuant to the provisions of P.L.1985,  
35 c.222 (C.52:27D-301 et al.) and any amounts received by a  
36 municipality under a regional contribution or workforce housing  
37 transfer agreement pursuant to section 12 of **【that act】** P.L.1985,  
38 c.222 (C.52:27D-312);

39 u. (Deleted by amendment, P.L.2004, c.74.)

40 v. (Deleted by amendment, P.L.1990, c.89.)

41 w. (Deleted by amendment, P.L.2004, c.74.)

42 x. Amounts expended to aid privately owned libraries and  
43 reading rooms, pursuant to R.S.40:54-35;

44 y. (Deleted by amendment, P.L.1990, c.89.)

45 z. (Deleted by amendment, P.L.1990, c.89.)

46 aa. Extraordinary expenses, approved by the Local Finance  
47 Board, required for the implementation of an interlocal services  
48 agreement;

1       bb. Any expenditure mandated as a result of a natural disaster,  
2 civil disturbance or other emergency that is specifically authorized  
3 pursuant to a declaration of an emergency by the President of the  
4 United States or by the Governor;

5       cc. Expenditures for the cost of services mandated by any order  
6 of court, by any federal or State statute, or by administrative rule,  
7 directive, order, or other legally binding device issued by a State  
8 agency which has identified such cost as mandated expenditures on  
9 certification to the Local Finance Board by the State agency;

10       dd. Expenditures of amounts actually realized in the local  
11 budget year from the sale of municipal assets in extraordinary cases  
12 and with the permission of the Local Finance Board;

13       ee. Any local unit which is determined to be experiencing fiscal  
14 distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-  
15 118.24 et seq.), whether or not a local unit is an "eligible  
16 municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-  
17 118.26), and which has available surplus pursuant to the spending  
18 limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may  
19 appropriate and expend an amount of that surplus approved by the  
20 director and the Local Finance Board as an exception to the  
21 spending limitation. Any determination approving the  
22 appropriation and expenditure of surplus as an exception to the  
23 spending limitations shall be based upon:

24       1) the local unit's revenue needs for the current local budget  
25 year and its revenue raising capacity;

26       2) the intended actions of the governing body of the local unit  
27 to meet the local unit's revenue needs;

28       3) the intended actions of the governing body of the local unit  
29 to expand its revenue generating capacity for subsequent local  
30 budget years;

31       4) the local unit's ability to demonstrate the source and  
32 existence of sufficient surplus as would be prudent to appropriate as  
33 an exception to the spending limitations to meet the operating  
34 expenses for the local unit's current budget year; and

35       5) the impact of utilization of surplus upon succeeding budgets  
36 of the local unit;

37       ff. Newly authorized operating appropriations for the municipal  
38 court or violation's bureau when approved by the vicinage Presiding  
39 Judge of the Municipal Court after consultation with the mayor and  
40 governing body of the municipality;

41       gg. (Deleted by amendment, P.L.2004, c.74.)

42       hh. (Deleted by amendment, P.L.2004, c.74.)

43       ii. Subject to the approval of the Local Finance Board,  
44 expenditures related to the cost of conducting and implementing a  
45 total property tax levy sale pursuant to section 16 of P.L.1997, c.99  
46 (C.54:5-113.5);

47       jj. Amounts expended for a length of service award program  
48 pursuant to P.L.1997, c.388 (C.40A:14-183 et al.);

1       kk. Amounts expended to provide municipal services or  
2 reimbursement amounts to multifamily dwellings for the collection  
3 and disposal of solid waste generated by the residents of the  
4 multifamily dwellings. This subsection shall cease to be operative  
5 at the end of the first local budget year in which the municipality  
6 has fully phased in its reimbursement amount expenses;

7       ll. Amounts expended by a municipality under an interlocal  
8 services agreement entered into pursuant to the "Interlocal Services  
9 Act," P.L.1973, c.208 (C.40:8A-1 et al.) entered into after the  
10 effective date of P.L.2000, c.126 (C.52:13H-21 et al.). The  
11 governing body of the municipality that will receive the service  
12 may choose to allow the amount of projected annual savings to be  
13 added to the amount of final appropriations upon which its  
14 permissible expenditures are calculated pursuant to section 2 of  
15 P.L.1976, c.68 (C.40A:4-45.2);

16       mm. Amounts expended under a joint contract pursuant to the  
17 "Consolidated Municipal Service Act," P.L.1952, c.72 (C.40:48B-1  
18 et seq.) entered into after the effective date of P.L.2000, c.126  
19 (C.52:13H-21 et al.). The governing body of each participating  
20 municipality may choose to allow the amount of projected annual  
21 savings to be added to the amount of final appropriations upon  
22 which its permissible expenditures are calculated pursuant to  
23 section 2 of P.L.1976, c.68 (C.40A:4-45.2);

24       nn. (Deleted by amendment, P.L.2004, c.74.)

25       oo. Amounts appropriated in the first three years after the  
26 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for liability  
27 insurance, workers' compensation insurance and employee group  
28 insurance;

29       pp. Amounts appropriated in the first three years after the  
30 effective date of P.L.2003, c.92 (C.18A:7F-5b et al.) for costs of  
31 domestic security preparedness and responses to incidents and  
32 threats to domestic security;

33       qq. Amounts required to be paid by a municipality pursuant to  
34 the provisions of section 4 of P.L.2007, c.311 (C.13:1E-96.5).

35       In the first full year when an existing appropriation or  
36 expenditure that is subject to budget limitations is made an  
37 exception to budget limitations, a municipality shall deduct from its  
38 final appropriations upon which its permissible expenditures are  
39 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),  
40 the amount which the municipality expended for that purpose  
41 during the last full budget year, or portion thereof, in which the  
42 purpose so excepted was funded from appropriations in the  
43 municipal budget.

44       In the first full year when an existing appropriation or  
45 expenditure that is not subject to budget limitations is made subject  
46 to budget limitations, a municipality shall add to its final  
47 appropriations upon which its permissible expenditures are  
48 calculated pursuant to section 2 of P.L.1976, c.68 (C.40A:4-45.2),



1 the amount which the municipality expended for that purpose  
2 during the last full budget year, or portion thereof, in which the  
3 purpose so excepted was funded from appropriations in the  
4 municipal budget.

5 (cf: P.L.2007, c.311, s.17)

6  
7 18. This act shall take effect on the first day of the sixth month  
8 next following enactment.

#### 11 STATEMENT

12  
13 The affordable housing needs of the State should be satisfied in  
14 an equitable manner throughout all municipalities, regardless of  
15 demographic profile. For many municipalities, the satisfaction of  
16 existing fair share affordable housing obligations could potentially  
17 result in significant challenges to local population, infrastructure,  
18 and school resources. This bill is meant to ensure that affordable  
19 housing is provided throughout the State in an equitable manner,  
20 while enhancing the choices municipalities have in determining  
21 how to provide it.

22 This bill amends the "Fair Housing Act," ("FHA") P.L.1985,  
23 c.222 (C.52:27D-301 et al.), to authorize the use of workforce  
24 housing transfer agreements ("WHTAs") with respect to moderate  
25 income housing obligations. The bill also establishes certain  
26 funding priorities for municipalities that accept additional moderate  
27 income housing obligations pursuant to a WHTA.

28 This bill would authorize municipalities to enter into WHTAs,  
29 which allow a municipality to transfer some or all of the moderate  
30 income portion of its affordable housing obligation, up to 50  
31 percent of its total affordable housing obligation. As a result, the  
32 bill maintains the prohibition on agreements to transfer a  
33 municipality's low income housing obligation.

34 Under the "Uniform Housing Affordability Controls," a  
35 development's "affordability average" is defined as an average of  
36 the percentage of county median income, at which a development's  
37 price-restricted units are affordable to low and moderate income  
38 households (N.J.A.C.5:80-26.2). For example, if the rents for the  
39 five price-restricted rental units in an affordable housing  
40 development were affordable at 46, 48, 50, 52 and 54 percent of  
41 county median income, respectively, the affordability average for  
42 those units would equal 50 percent. The bill codifies this definition  
43 in the FHA. The bill also defines "moderate income housing share"  
44 as the percentage of all price-restricted housing units in new  
45 developments in a municipality that are permitted to be moderate  
46 income units, as opposed to low-income units.

47 The bill provides that a WHTA would increase or decrease, as  
48 applicable, the moderate income housing obligations of

1 participating municipalities in proportion to the number of units  
2 transferred in the agreement. The affordability average of  
3 participating municipalities also would be adjusted to a lower or  
4 higher percentage of county median income, as applicable, in  
5 proportion to the number of moderate income units transferred.

6 Additionally, the bill provides that a workforce housing transfer  
7 agreement may only be approved if the sending municipality  
8 provides the receiving municipality funds in an amount not less  
9 than the amount of funds necessary to defray the costs of  
10 construction associated with fulfilling the moderate income housing  
11 obligations, transferred pursuant to the agreement, if the  
12 construction occurred within the sending municipality.

13 Under the bill, a receiving municipality may satisfy its increased  
14 moderate income housing obligation through the provision of  
15 “workforce housing.” Workforce housing is defined as housing that  
16 (1) is affordable to households making between 80 and 120 percent  
17 of the regional median income, and (2) may be reserved for  
18 households having at least one member who works or resides in the  
19 municipality upon submittal of the application for workforce  
20 housing.

21 Additionally, the bill requires the Council on Affordable  
22 Housing (“COAH”) to review a proposed WHTA to certify that it  
23 contains sufficient safeguards to ensure that contributions to the  
24 receiving municipality are applied for purposes consistent with the  
25 agreement and the FHA. The bill directs DCA to adopt rules and  
26 regulations setting forth the applicable safeguards.

27 This bill also allows municipalities which are located in different  
28 housing regions to enter into a WHTA. Further, the bill prohibits a  
29 municipality from avoiding development resulting from a builders’  
30 remedy lawsuit through the use of a WHTA.

31 In addition, the bill establishes the following funding priorities  
32 for municipalities that accept additional moderate income housing  
33 obligations pursuant to a WHTA:

34 (1) DCA is required to establish a funding priority for housing  
35 projects located in receiving municipalities when expending certain  
36 funds (i.e., realty transfer fee receipts) from the “New Jersey  
37 Affordable Housing Trust Fund”;

38 (2) The Housing and Mortgage Finance Agency is required to  
39 give preference to affordable housing programs situated in  
40 receiving municipalities when awarding funding;

41 (3) The State debt service aid provided to support approved  
42 school facility projects is required to be increased by not less than  
43 10 percent and not more than 30 percent for school districts  
44 containing a receiving municipality, except that the district aid  
45 percentage may not exceed 90 percent; and

46 (4) The Department of Transportation is required to provide a  
47 funding priority to receiving municipalities when awarding monies  
48 through the department’s discretionary local aid program.

1       The bill also requires the Department of Environmental  
2       Protection to expedite, to the extent possible, the review of any  
3       permit or approval within its authority that is submitted in  
4       conjunction with a proposal to develop affordable housing in a  
5       receiving municipality.

6       Given that the construction of housing often places increased  
7       pressure on a municipality's existing infrastructure, including  
8       school facility and highway capacities, it is the intent of the sponsor  
9       to provide receiving municipalities with the resources necessary to  
10      fully accommodate the voluntary influx of affordable housing.